
Introduced by Senator Machado

February 20, 2003

An act to amend Section 742.24 of the Insurance Code, relating to multiple employer welfare arrangements.

LEGISLATIVE COUNSEL'S DIGEST

SB 608, as introduced, Machado. Multiple employer welfare arrangements.

Existing law prohibits a multiple employer welfare arrangement, as defined, from providing health or other benefits for any resident of this state unless it obtains a certificate of compliance, as specified, from the Department of Insurance. Existing law sets forth various requirements for obtaining a certificate of compliance, including the requirement that the multiple employer welfare arrangement have been operating in compliance with the federal Employee Retirement Income Security Act (ERISA) on a self-funded or partially-funded basis for a continuous period of 5 years pursuant to a trust agreement.

This bill would increase the required period of ERISA compliance to 6 years.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 742.24 of the Insurance Code is
- 2 amended to read:
- 3 742.24. To be eligible for a certificate of compliance, a
- 4 self-funded or partially self-funded multiple employer welfare
- 5 arrangement shall meet all of the following requirements:

1 (a) Be nonprofit.

2 (b) Be established and maintained by a trade association,
3 industry association, professional association, or by any other
4 business group or association of any kind that has a constitution or
5 bylaws specifically stating its purpose, and have been organized
6 and maintained in good faith with at least 200 paid members and
7 operated actively for a continuous period of ~~five~~ *six* years, for
8 purposes other than that of obtaining or providing health care
9 coverage benefits to its members. An association is a California
10 mutual benefit corporation comprised of a group of individuals or
11 employers who associate based solely on participation in a
12 specified profession or industry, accepting for membership any
13 individual or employer meeting its membership criteria, which do
14 not condition membership directly or indirectly on the health or
15 claims history of any person, and which uses membership dues
16 solely for and in consideration of the membership and membership
17 benefits.

18 (c) Be organized and maintained in good faith with at least
19 2,000 employees and 50 paid employer members and operated
20 actively for a continuous period of five years.

21 (d) Have been operating in compliance with ERISA on a
22 self-funded or partially self-funded basis for a continuous period
23 of five years pursuant to a trust agreement by a board of trustees
24 that shall have complete fiscal control over the multiple employer
25 welfare arrangement, and that shall be responsible for all
26 operations of the multiple employer welfare arrangement. The
27 trustees shall be selected by vote of the participating employers
28 and shall be owners, partners, officers, directors, or employees of
29 one or more employers participating in the multiple employer
30 welfare arrangement. A trustee may not be an owner, officer, or
31 employee of the insurer, administrator, or service company
32 providing insurance or insurance-related services to the
33 association. The trustees shall have authority to approve
34 applications of association members for participation in the
35 multiple employer welfare arrangement and to contract with an
36 authorized administrator or service company to administer the
37 day-to-day affairs of the multiple employer welfare arrangement.

38 (e) Benefits shall be offered only to association members.

39 (f) Benefits may be offered only through life agents, as defined
40 in Section 1622, licensed in the state whose names, addresses, and



1 telephone numbers have been filed with the commissioner as
2 licensed life agents for the multiple employer welfare
3 arrangement.

4 (g) Be operated in accordance with sound actuarial principles
5 and conform to the requirements of Section 742.31.

6 (h) File an application with the department for a certificate of
7 compliance no later than November 30, 1995.

8 (i) The multiple employer welfare arrangement shall at all
9 times maintain aggregate stop loss insurance providing the
10 arrangement with coverage with an attachment point which is not
11 greater than 125 percent of annual expected claims. The
12 commissioner may, by regulation, define “expected claims” for
13 purposes of this subdivision and provide for adjustments in the
14 amount of the percentage in specified circumstances in which the
15 arrangement specifically provides for and maintains reserves in
16 accordance with sound actuarial principles as provided in Section
17 742.31.

18 (j) The multiple employer welfare arrangement shall establish
19 and maintain specific stop loss insurance providing the
20 arrangement with coverage with an attachment point which is not
21 greater than 5 percent of annual expected claims. The
22 commissioner may, by regulation, define “expected claims” for
23 purposes of this subdivision and provide for adjustments in the
24 amount of that percentage as may be necessary to carry out the
25 purposes of this subdivision determined by sound actuarial
26 principles as provided in Section 742.31.

27 (k) The multiple employer welfare arrangement shall establish
28 and maintain appropriate loss and loss adjustment reserves
29 determined by sound actuarial principles as provided in Section
30 742.31.

31 (l) The association has within its own organization adequate
32 facilities and competent personnel to serve the multiple employer
33 welfare arrangement, or has contracted with a licensed third-party
34 administrator to provide those services.

35 (m) The association has established a procedure for handling
36 claims for benefits in the event of the dissolution of the multiple
37 employer welfare arrangement.

38 (n) On and after January 1, 2003, in addition to the
39 requirements of this article, maintain a surplus of not less than one
40 million dollars (\$1,000,000), and that this amount be increased as

1 follows: one million seven hundred fifty thousand dollars
2 (\$1,750,000) by January 1, 2004; two million five hundred
3 thousand dollars (\$2,500,000) by January 1, 2005; three million
4 two hundred fifty thousand dollars (\$3,250,000) by January 1,
5 2006; and four million dollars (\$4,000,000) by January 1, 2007.

6 (o) Submit all proposed rate levels to the department for
7 informational purposes no later than 45 days prior to their
8 implementation. The proposed rates shall contain an aggregate
9 benefit structure which has a loss ratio experience of not less than
10 80 percent. The loss ratio experience shall be calculated as claims
11 paid during the contract period plus a reasonable estimate of
12 claims liability for the contract period at the end of the current year
13 divided by contributions paid or collected for the contract period
14 minus unearned contributions at the end of the current year.

15 (p) Comply with the investment requirements of Article 3
16 (commencing with Section 1170) of Chapter 2 of Part 2 of
17 Division 1 and Section 1192.5.

